

EX PARTE OR LATE FILED



November 19, 1996

Mr. William Caton
Secretary, Federal Communications Commission
Room 222
1919 M Street NW
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Re: *Ex Parte* Contact
CC Docket No. 96-28 (RM-8621), In the matter of Amendment of Subpart D of Part 68
of the FCC's Rules and Regulations

Dear Mr. Caton:

This is to confirm that the Telecommunications Industry Association (TIA) sent a letter regarding the subject docket by UPS Overnight mail to Commissioner Reed Hundt.

Attached is a copy of the letter that was sent to Commissioner Hundt.

Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Roberta Breden", with a stylized flourish at the end.

Roberta Breden

Director, Technical and Regulatory Affairs

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Matthew J. Flanigan
President
703/907-7701



November 14, 1996

NOV 19 1996

The Honorable Reed Hundt
Chairman
Federal Communications Commission
1919 M Street, Northwest
Washington, D.C. 20554

Dear Chairman Hundt,

I am writing to you to express the concern of the Telecommunications Industry Association ("TIA") and its members' about (i) the long delay in CC Docket No. 96-28 which addresses the harmonization of Part 68 with Canada's equivalent regulations in CS-03 and (ii) other Part 68 Rulemakings. After countless man-years of effort by many industry experts on both sides of our border, TIA finds that the Canadian and U.S. regulations are again out of step with each other. Allowing for the fact that the harmonized document included in TIA's Petition for Rulemaking to the FCC ("Petition"), submitted on March 9, 1995, which was produced as a result of industry consensus from both Canadian and U.S. industry, and both the Comments and Reply Comments in the resulting Rulemaking were unanimously supportive, we hoped the Commission would have been able to issue an Order in an expeditious manner. We recognize the enormous workload the FCC staff is under because of the implementation requirements of the Telecommunications Act of 1996; however, many of the Part 68 dockets precede the Telecommunications Act of 1996.

As TIA noted in its Petition, years of technical work went into the harmonization effort included with the Petition. Almost another year passed while the FCC considered the merits of TIA's Petition before issuing the Notice of Proposed Rulemaking ("NPRM"). If the U. S. Government has as a policy goal harmonization of technical requirements in North America, in this hemisphere, and ultimately globally, then procedures to keep harmonized technical requirements synchronized must be developed and used. Otherwise the years of effort directed to harmonization will have been wasted efforts.

We now find that Canadian and U.S. regulatory requirements for terminal equipment attachment are again out of synchronization because Canada has already adopted harmonized CS-03 regulations. It should be pointed out that the lack of agreement between the current Part 68 and the updated CS-03 requirements impacts all participants in the industry, and most significantly small businesses, who cannot take advantage of the benefits of harmonized technical requirements in their new equipment designs.



We believe that regulatory delay is counter-productive to the U.S. telecommunications industry, particularly in view of the on-going mutual recognition agreement negotiations with Europe, Mexico, and others which rely on a unified industry position on regulatory requirements. This Harmonization Rulemaking is significant to future globalization of the telecommunications industry and will set the stage and tone for further work under the North American Free Trade Agreement ("NAFTA") and activities implementing the policies of the 1994 Summit of the Americas because it would introduce similar technical requirements for registration and certification of terminal equipment in Canada and the United States.

Ambassador Kantor as the United States Trade Representative ("USTR") recognized the importance of this work in his letter to you dated May 22, 1995, where he said:

Through this Rulemaking, the FCC will not only facilitate harmonization in the North American market, but will advantageously position the United States in its discussion to promote international harmonization in other fora, such as in the Asia Pacific Economic Cooperation forum and the Summit of the Americas Action Plan. The potential for U.S. suppliers to design to requirements harmonized in a number of countries, and test for compliance only once for a number of markets, will significantly increase U.S. access to telecommunications markets around the world.

My staff works on a day-to-day basis with the FCC Common Carrier Bureau staff involved in administering Part 68 and I know that the Commission has no more dedicated or hard working employees. We respectfully request you and the other Commissioners to review the status of this Part 68 docket and other Part 68 dockets that have also had long delays. We believe that your leadership can not only accelerate action in this Docket, but alleviate the delays in other proceedings as well.

For example, in its recent Petition for Reconsideration in CC Docket No. 93-268, TIA noted that the industry has been waiting for Integrated Services Digital Network ("ISDN") and Public Switched Digital Service ("PSDS") requirements to be added to Part 68 of the Commission's Rules for many years. On page 8 of that Petition, TIA noted:

The Ameritech Petition for Rulemaking to add PSDS to Part 68 was filed October 26, 1987 and the Southwestern Bell Telephone Company Petition for Rulemaking to add ISDN to Part 68 was filed August 23, 1991. Such delays of over 9 years before an Order becomes effective do not appear to serve the public interest and jeopardize harmonization efforts with other countries for technical regulations. (emphasis in the original)

We also urge your review of the record in CC Docket No. 88-57 for wiring rules under Part 68. The regulatory process in that Docket has been delayed not months but years. Reconsideration requests in this docket have been pending for a long time.

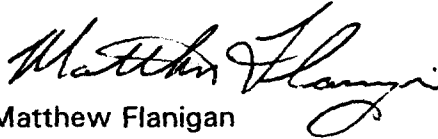
One way to further the goals of more timely regulations for high-tech sectors where technology frequently changes in less than 18 months would be to structure the FCC's Rules to rely more on technical criteria set by voluntary industry standards.

The Congress recently urged Federal agencies and departments to do just that. This recommendation is contained in Public Law 104-113, the National Technology Transfer and Advancement Act of 1995 (PL 104-113). Congress also relied on voluntary industry standards-setting processes in the Communications Assistance for Law Enforcement Act of 1994 ("CALEA") for Lawfully Authorized Electronic Surveillance ("LAES"). TIA is working with the Federal Bureau of Investigation ("FBI") and other federal and state law enforcement agencies to develop this LAES standard as Congress directed. The FCC has an important role in the CALEA process but it is a much more limited role of oversight upon a request filed by any party. This may provide a model for further consideration by the FCC in the area of Part 68.

In summary, TIA requests that the Commission expedite the amendment of Part 68 so that the telecommunication industries of Canada and the U.S. can benefit from the synchronized harmonization of both countries' regulatory requirements and eliminate barriers to trade in telecommunications equipment. In addition TIA requests your personal review on the other delayed Part 68 Rulemakings.

If I or my staff can assist you in any way during this review please let me know.

Sincerely,

A handwritten signature in cursive script, appearing to read "Matthew Flanigan".

Matthew Flanigan

cc: Commissioner James Quello
Commissioner Susan Ness
Commissioner Rachelle Chong